

K-1775D  
PATENT

In the application of: Montgomery, Jr.  
Serial No.10/657,397  
Filed: September 8, 2003

RESPONSE TO FINAL OFFICE ACTION OF SEPTEMBER 14, 2004

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Remarks

Introduction

Applicant's attorney and Mr. Randall W. Ojanen appreciate the courteous interview with Examiner Singh on October 20, 2004. As set forth in the Interview Summary of October 20, 2004, it is the Examiner's view that proposed claim 22 appears to define over the applied prior art; however, he believes that the claim amendment may raise a new issue. The comments set forth below track the discussion at the October 20, 2004 interview about the applied references.

Comments on the Rejection Based upon Krekeler

The anticipation rejection based upon U.S. Patent No. 3,397,012 to Krekeler cites the text at Column 13, line 63 and the drawing FIG. 18. As pointed out during the interview, while Krekeler pertains to a cutter bit and in FIG. 18 (the figure referred to in the Office Action) discloses a sleeve, the detent 89A and its associated structure does not address the existence of a split portion as called for in the claims, but is a detent that appears to engage the lug surface. See Col. 13, lines 50-75. Such a detent structure would appear to not allow the sleeve depicted in FIG. 18 to contract radially inwardly so that there cannot be a split portion that is flexible in a radial direction per the claims. Further, the detent 89a in FIG. 18 appears to extend in a radial direction past the external surface of sleeve 86a. In this regard, Exhibit A attached hereto is a copy of FIGS. 17 and 18 that shows the detent 89a and how the detent surface 90 extends in a radial direction past the external surface so that it cannot anticipate the claims that read [in part] (emphasis added):

... the elongate body having ... a split portion beginning at and extending in an axial forward direction from the rearward end wherein the split portion contains a slot so that the split portion is flexible in a radial direction, ... the split portion having an external surface that is uniform over the entire length thereof ...

Comments on the Rejection Based on Emmerich et al.

As pointed out during the interview of October 20, 2004, while Emmerich et al. pertains to a sleeve and bit arrangement, the rearward portion of the entire sleeve thereof does not present an external surface that is uniform all the way to the rearward termination of the

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sleeve, but includes a protuberance 84 so as to be different from the claimed sleeve. Hence, Emmerich et al. cannot anticipate claims 22-25, and requests the removal of the rejection.

Comments on the Rejection Based on Crosby

While U.S. Patent No. 3,865,437 to Crosby discloses a rotary mining tool that includes a retaining structure, it is very apparent from the disclosure (FIG. 5) of the '437 Patent that the rearward portion of the sleeve includes protuberance 46 so that it cannot meet the claims. Thus, Crosby cannot anticipate claims 22-25.

Conclusion

Again, applicant's attorney and Mr. Ojanen appreciate the courteous interview with Examiner Singh on October 20, 2004. Applicant submits that claims 22-25 as per the proposed amendment are patentably distinct over the applied references.

In view of the nature of the amendment, applicant submits that it should not raise a new issue that necessitates a new search. Since the claims now clearly define over the applied references, applicant respectfully solicits the entry of this paper and the issuance of a Notice of Allowance and Notice of Issue Fee Due. If the Examiner has any questions, he is respectfully urged to contact the undersigned at 1-615-662-0100 or Mr. Matthew W. Smith, Esq. at 724-539-3848.

Respectfully submitted,

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Steve/K1775DIV ResponseFINAL OA-002(08-2004)